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May 22, 2009

Via Facsimile

Honorable Paul A. Crotty
 United States District Court for the Southern District of New York
 United States Courthouse
 500 Pearl Street, Room 735
 New York, New York 10007-1312

Re: *Mohney v. Shelly's Prime Steak Stone Crab & Oyster Bar*,
 06 Civ. 4270 (PAC)

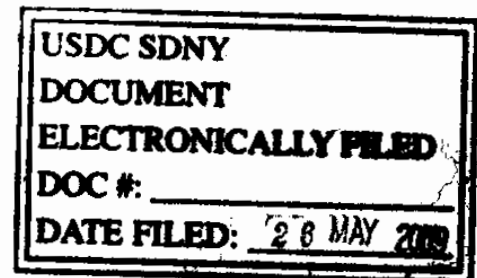
Dear Judge Crotty:

We represent Plaintiffs and the Class. We are pleased to report that Defendants have accelerated their settlement payments, which were to stretch through mid-2010, and deposited the remaining \$1,565,000.00 into the settlement administrators' Qualified Settlement Fund ("QSF") account in one lump sum.

Today, the settlement administrator expects to distribute the \$1,109,091.47 that was already in the QSF to the Class and \$84,000.00 to the named plaintiffs, per the Court's Final Approval Order. It has already paid Class Counsel the first installment of attorneys' fees (\$507,231.62) and will reimburse Class Counsel \$50,000.00 for expenses soon. The settlement administrator has also paid itself \$12,500.00, per the Court's Order.

We write jointly with Defendants to request the Court's permission to alter the existing payout schedule and distribute the final \$1,565,000.00 in short order pursuant to the following payout schedule:

- ✱ May 26, 2009 Pay Class Counsel its remaining attorneys fees (\$521,666.66).
- ✱ June 30, 2009 Distribute \$1,000,000 to the Class.
- ✱ November 30, 2009 Distribute the amount remaining in the QSF account to the Class or to the *cy pres*, as appropriate.



MEMO ENDORSED

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We propose June 30, 2009 for the second Class distribution to allow some time to correct any discrepancies or mistakes revealed after today's distribution. Also, by holding back a small portion of the settlement fund from the June 30 distribution, approximately \$43,000.00, the parties will be well-positioned to correct any discrepancies or mistakes from the first two distributions.

Thank you for your attention to this matter.

Respectfully submitted,


Justin M. Swartz

cc: Arch Y. Stokes, Esq. (by email)
Anne-Marie Mizel, Esq. (by email)
Linda A. Neilan, Esq.

SO ORDERED:

26 MAY 2009


HON. PAUL A. CROTTY
UNITED STATES DISTRICT JUDGE